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| In re Application of | : | |
| GIBBON et al. | : | |
| Application No.: 10/031,839 | : | DECISION ON |
| PCT No.: PCT/CA00/00800 | : | |
| Int. Filing Date: 06 July 2000 | : | PETITION UNDER |
| Priority Date: 19 July 1999 | : | |
| Attorney Docket No.: 10002/265498 | : | 37 CFR 1.137(b) |
| For: IMAGE PROJECTION SYSTEM | : | |

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 13 February 2003.

BACKGROUND

On 06 July 2000, applicant filed international application PCT/CA00/00800, which designated the United States and claimed a priority date of 19 July 1999. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 25 January 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 February 2001, which was within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 January 2002 (19 January 2002 being a Saturday and 21 January 2002 being a Federal holiday).

On 22 January 2002, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 27 March 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating, *inter alia*, that an oath or declaration of inventors was required. The Notification set a two month extendable period for response.

On 07 January 2003, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned as to the United States for failure to respond to the

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 27 March 2002.

On 13 February 2003, applicants submitted the instant "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" which was accompanied by, *inter alia*, a declaration of inventors.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted a declaration of inventors on 13 February 2003. This declaration is in compliance with 37 CFR 1.497(a)-(b).

As to item (2), applicant submitted the petition fee on 13 February 2003.

As to item (3), the required statement has been provided.


A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application a 35 U.S.C. 371(c) date of **13 February 2003**.


Daniel Stemmer
Legal Examiner
PCT Legal Affairs

Application No.: 10/031,839

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